

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

UNION DE TRABAJADORES DE LA INDUSTRIA
ELECTRICA Y RIEGO (UTIER),

Plaintiff,

v.

PUERTO RICO ELECTRIC POWER AUTHORITY; THE
FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO; JOSE B. CARRION III;
ANDREW G. BIGGS; CARLOS M. GARCIA; ARTHUR
J. GONZALEZ; JOSE R. GONZALEZ; ANA J.
MATOSANTOS; DAVID A. SKEEL, JR. AND JOHN
DOES 1-7.

Defendants.

No. 17 AP 00228-LTS

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284) (Last Four Digits Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

**UNITED STATES' STATEMENT IN SUPPORT
OF THE CONSTITUTIONALITY OF PROMESA**

Pursuant to the Court's October 2, 2017 Order Regarding Briefing and Hearing Schedule in Connection With the Aurelius Motions and UTIER Adversary Proceeding, the United States hereby submits this statement in support of the constitutionality of the Puerto Rico Oversight, Management, and Economic Stability Act of 2016 ("PROMESA"), 48 U.S.C. §§ 2101–2241. *See* Order, ECF No. 46. Plaintiff Union de Trabajadores de la Industria Electrica y Riego ("UTIER")—a labor union of the Puerto Rico Electric Power Authority—filed an Adversary Complaint alleging that PROMESA's statutory scheme governing the appointment of members of the Oversight Board violates the Appointments Clause of the Constitution, U.S. Const. art. II, § 2, cl. 2, and encroaches on the President's executive authority in violation of separation of powers. *See* Am. Adv. Compl., ECF No. 75. Because UTIER raises constitutional challenges identical to those raised by Aurelius, the United States hereby adopts and incorporates by reference the arguments set forth in its Memorandum of Law in Support of the Constitutionality of PROMESA filed in the Commonwealth's Title III case. *See* Case No. 17-bk-3283, ECF. No. 1929.

For the reasons stated in that Memorandum of Law, the United States respectfully requests that the Court uphold the constitutionality of PROMESA and dismiss UTIER's Amended Adversary Complaint.

Dated: December 6, 2017

Respectfully submitted,

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/s/ Jean Lin

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CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of December 2017, I caused a true and correct copy of the foregoing Notice of Appearance to be filed with the Clerk of the Court using the CM/ECF system which will generate electronic notification to all CM/ECF participants in these cases.

/s/ Jean Lin
Jean Lin